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10/537,649	02/28/2006	Yoshimitsu Kagiwada	SHIO-0110	4613

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EXAMINER

PLUCINSKI, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,649	Applicant(s) KAGIWADA ET AL.	
	Examiner JAMISUE A. PLUCINSKI	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tozzoli et al. (6,151,588) in view of Business Wire (Article: Retail Decision and I4 Commerce Form Alliance to Provide the Bill Me Later Payment Option for LiveProcessor Users) and Swan et al. (US 2003/0132854).

4. With respect to Claim 1: Tozzoli discloses the use of a parcel delivery information exchange method (The system of Tozzoli is one that processes payments and stored billings amounts for items purchased and delivered, therefore the examiner considers the system to be fully capable of retrieving transaction state of the commodity by the parties involved in the

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commodity transaction, and the examiner considers the method of Tizzoli fully capable of mutually exchanging the transaction state of the commodity on a network, the method comprising:

- a. Storing commodity information in a commodity information storage means (Column 6, lines 48-52 and Claim 7);
 - b. Receiving, via a process means, order reception information from a receiver side terminal of the commodity that receives the commodity information through a communications means (See Figure 2A, Column 6, lines 35-47);
 - c. Storing a billing amount in a door to door parcel delivery information storage means, (Column 7, lines 1-8 and Column 8, lines 15-22, the orders are associated with a price, therefore when the purchase order is accepted and stored, the examiner considers this to be the billing amount that is stored),
 - d. Storing delivery state information from the deliverer side terminal in the storage means (Column 8, lines 6-13),
 - e. Receiving and transmits a billing amount to orderer, seller and the buyers broker (Column 9, lines 15-23). Tozzoli discloses that the order can come with a payment guarantee, therefore the system of Tozzoli is fully capable of having the commodity shipped before payment is confirmed.
5. Tozzoli discloses the order can come with a payment guarantee, however fails to specifically disclose an order receiver then ships the commodity to a user of the receiver side terminal before confirming payment with the receiver side terminal. The Business Wire article discloses the use of catalog and website order receivers using an option of "Bill Me Later" which

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is a method of shipping a product to the customer before payment is received (See Page 1). The examiner considers this to be the order receiver shipping the commodity to a user of the receiver side terminal before confirming payment with the receiver side terminal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Tozzoli to include the "Bill Me Later" feature as described in the Business Wire article, in order to eliminating the need for a credit card at purchase and enables merchants to reduce transaction costs (See Business Wire article, Page 1)

6. Tozzoli discloses receiving delivery state information, however fails to specifically disclose tracking the delivery state information where the delivery state information includes a confirmation time at a checkpoint and a moving state of being in the vicinity of a location. Swan et al. (US 2003/0132854) discloses the use of tracking items in a supply chain and an order (See abstract and paragraph 0085), where tracking includes a confirmation time confirming delivery state at a check point (See Paragraphs 0131 and 0132) as well as moving state of being in a vicinity (See Paragraph 0087 as well as Figures 8 and 9 with corresponding detailed description). Swan also discloses the tracking used for confirming delivery to trigger billing (Paragraph 0149). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Tozzoli and The Business Wire, in include the tracking system of Swan, in order to provide a real-time tracking of articles (See Swan Page 2)

7. With respect to Claim 2: Tozzoli discloses the use of shipping document templates, which the examiner considers to be a form of a shipping slip. Figure 3A discloses the system to store templates, use deliverer information and prepare the shipping documents and forward them

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to the seller to finalize the terms (See Figure 3A, Reference numerals 610, 620, 630 and 850 with corresponding detailed description).

8. With respect to Claims 3 and 5: See Tozzoli Figure 3C with corresponding detailed description.

9. With respect to Claim 6: See Tozzoli Reference numerals 640 and 870 with corresponding detailed description.

10. With respect to Claim 7: See Swan Paragraph 0009.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tozzoli et al., Business Wire and Swan et al. in view of Kadaba (6,539,360).

12. Tozzoli, The Business Wire article and Swan, disclose the use of shipping orders, however fails to disclose the items of the order are fragile articles or pets, and fails to disclose the delivery status is a state of the article or the pet. Kadaba discloses the use of a special handling item shipping and tracking system, which ships and tracks whether a package designated for special handling (such as fragile items, Column 6, lines 1-8) has been applied to the packages (See abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Tozzoli, Business Wire and Swan to include the tracking of special handling items, such as in Kadaba in order to provide a system which applies special handling to fragile items at appropriate times and to determine if there is a reoccurring failure in the special handling of items. (See Kadaba Column 4).

Response to Arguments

13. Applicant's arguments filed 11/2/09 have been considered but are moot in view of the new ground(s) of rejection.

14. It should be noted, that the term "tracking" is not found to be present in the original specification, therefore is only given the definition of "received and stored", which steps are outlined in the specification. If the claims are amended to have term tracking being recited as something more than just received and stored, the applicant will need to show specific support for where it is located in order to avoid a new matter situation.

15. Due to the fact that tracking is simply receiving information and storing the information and the applicant has not given any specific steps which utilize the specific information of the checkpoint and the moving state, the specifics of the delivery state information is still considered to be non-functional descriptive. However, in order to further prosecution the examiner has applied a new piece of art which covers the newly added tracking limitation.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Vogel et al. (US 2007/0277229) discloses the use of tracking signatures for delivery confirmation, Robbins (US 2003/0182265) discloses the use of a delivery tracking system and Jones (US 2003/0146854) discloses the use of a delivery system which tracking the movement of the trucks to give recipients a warning on the arrival of the delivery.

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17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamisue A. Plucinski/
Primary Examiner, Art Unit 3629